

# Planning Proposal

## Amendment to Greater Taree Local Environmental Plan 2010

**391 Diamond Beach Road, Diamond Beach  
(Lot 17 DP 576415)**

Prepared by:

**MidCoast Council**  
Taree Office  
PO Box 482  
TAREE NSW 2430

T: +61 (2) 6591 7222  
E: [council@midcoast.nsw.gov.au](mailto:council@midcoast.nsw.gov.au)

Version 2 / Date: October 2017

<b>Version</b>	<b>Purpose of Document</b>	<b>Author</b>	<b>Date</b>
1	For Gateway Determination	AT	April 2017
2	Amendments in accordance with Gateway Determination for public exhibition	AT	October 2017

# Table of contents

- TABLE OF CONTENTS** **3**
- INTRODUCTION** **5**
  - The site .....5
  - The process .....6
- PART 2 - EXPLANATION OF PROVISIONS** **7**
  - 2.1 Zone changes.....7
  - 2.2 Schedule 1 changes .....8
  - 2.3 Height of Buildings.....8
  - 2.4 Floor Space Ratio.....9
  - 2.5 Minimum Lot Size ..... 10
- PART 3 - JUSTIFICATION** **10**
  - 3.1 Need for the planning proposal..... 10
    - 3.1.1 Is the planning proposal a result of any strategic study/report? ..... 10
    - 3.1.2 Is the proposal the best means of achieving the objectives/outcomes?..... 11
  - 3.2 Relationship to strategic planning framework..... 12
    - 3.2.1 Is the planning proposal consistent with the regional strategy? ..... 12
    - 3.2.2 Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan? ..... 12
    - 3.2.3 Is the planning proposal consistent With State Environmental Planning Policies (SEPPs)? ..... 12
    - 3.2.4 Is the planning proposal consistent with applicable Ministerial Directions (117 Directions)? ..... 12
  - 3.3 Environmental, Social and Economic Impact ..... 13
    - 3.3.1 Is there any likelihood that critical habitat, threatened species, populations, ecological communities, or their habitats, will be adversely affected as a result of the proposal? ..... 13
    - 3.3.2 Are there any other likely environmental effects and how are they proposed to be managed? ..... 13
    - 3.3.3 Has the proposal adequately addressed social and economic effects? ..... 17

3.4 State and Commonwealth interests .....	17
3.4.1 Is there adequate public infrastructure for the planning proposal?.....	17
3.4.2 What are the views of State and Commonwealth public authorities?.....	17
<b>PART 4 - MAPPING</b>	<b>17</b>
<b>PART 5 - COMMUNITY CONSULTATION</b>	<b>17</b>
<b>PART 6 - PROJECT TIMELINE</b>	<b>18</b>

## Introduction

The planning proposal seeks to amend *Greater Taree Local Environmental Plan 2010* (LEP 2010) to rezone land at 391 Diamond Beach Road, Diamond Beach from the RU1 Primary Production zone to a combination of SP3 Tourist and E2 Environmental Conservation zones. The change will allow for the future expansion of the existing tourist facilities and protection of environmentally sensitive areas (coastal hazard to the east and habitat in the south west corner of the site). A Planning Agreement is proposed to address pedestrian access to Diamond Beach and restoration of land with environmental values.

The planning proposal has been prepared by MidCoast Council in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the relevant Department of Planning and Environment (Department) Guidelines, including *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Planning Proposals*.

This planning proposal outlines the characteristics of the site, how the proposed development is consistent with the planning controls and the proposed amendments to LEP 2010.

## The site

The site is located at 391 Diamond Beach Road, Diamond Beach being Lot 17 DP 576415 and has an area of 4.35 ha. Figure 1 (below) identifies the site boundary in yellow. The site fronts Diamond Beach Road and the beach. This area is a tourism precinct with Seashells Resort to the north and the Diamond Beach Resort to the south (across the road).

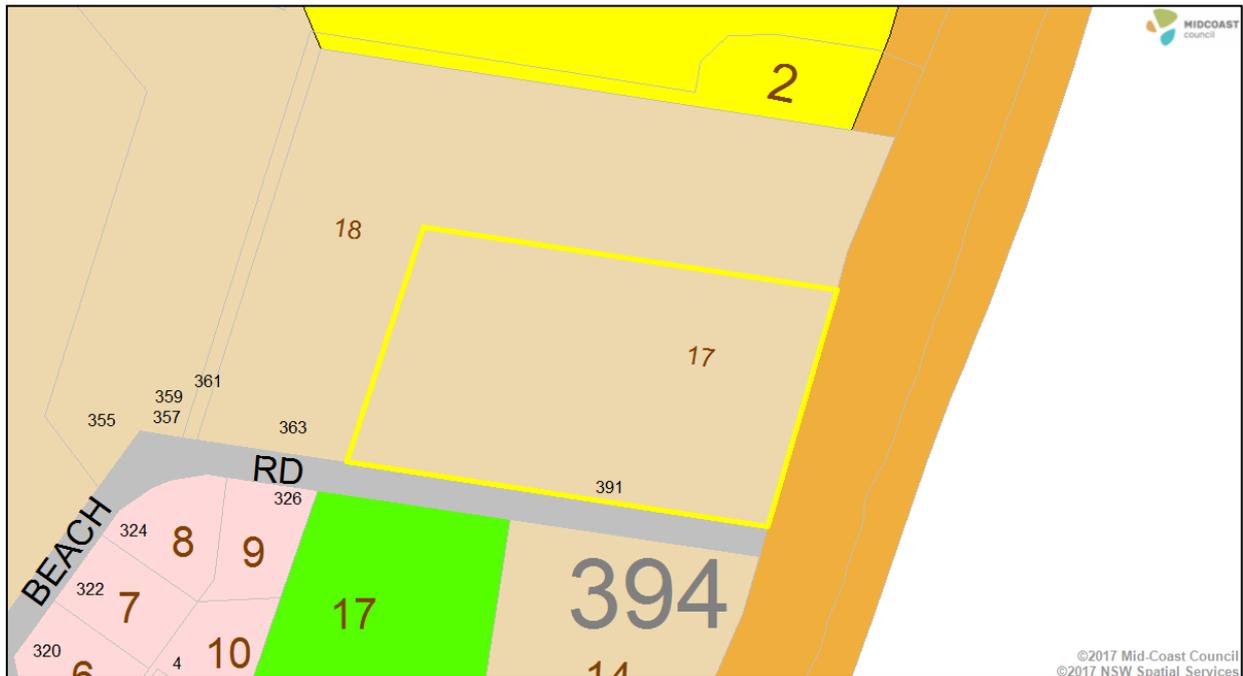


**Figure 1: Aerial of site**

The Diamond Beach Holiday Villas are located on the south-eastern section of the site and include six holiday rental villas. A two storey dwelling is occupied by the owner of the land.

The remainder of the site is relatively cleared, except for a portion of vegetation in the south-western corner which forms part of a vegetation corridor joining with lands to the west and south of the site.

The site is currently included in the RU1 Primary Production zone as shown in light brown in the map below. Land currently included in the SP3 Tourist zone is shown in yellow to the north of the site.



**Figure 2: Zone of site**

A development application has been approved on this site for a caravan park, which will provide 90 short term sites and 15 campsites with recreational facilities and amenities to be constructed over 3 stages.

## The process

While the local government areas of Gloucester Shire, Greater Taree and Great Lakes Councils were merged into the MidCoast Council in May 2016, the LEPs for each former Council still apply. This planning proposal recommends changes to the *Greater Taree Local Environmental Plan 2010*.

The process undertaken for planning proposals is outlined below.

<b>Assess planning proposal.</b> ✓ <b>Council consideration</b> <b>19 April 2017</b>	<b>Gateway Determination</b> ✓ <b>(State Government)</b> <b>29 June 2017</b>	<b>Consult with:</b> <ul style="list-style-type: none"> <li>• State agencies</li> <li>• community</li> </ul>	<b>Consider submissions</b>	<b>Make the plan</b>
--	--	--	-----------------------------	----------------------

The planning proposal was reported to the Ordinary Council meeting on 19 April 2017. The report to proceed with the application was endorsed by Council (minutes are available at <http://www.midcoast.nsw.gov.au/Council/Council-Meetings>).

Through the Gateway determination, the Department of Planning and Environment provided Council with the delegation to make these amendments to LEP 2010.

## Part 1 - Objectives

The objective of the planning proposal is to develop the tourist precinct of Diamond Beach which has been identified in strategic planning documents undertaken in the early 2000s. While tourist uses have been developed on this site and adjoining properties, the SP3 Tourist zone has not been applied to these sites to reflect the intent of the land.

In addition, the planning proposal will:

- improve coastal protection measures
- encourage public access to the beach
- protect important coastal vegetation.

## Part 2 - Explanation of provisions

To enable tourist-related uses on this site, the zone of the land needs to be changed along with a number of other changes to LEP 2010 as outlined below.

### 2.1 Zone changes

Figure 3 shows the proposed zones that will be applied over the site which include:

- SP3 Tourist zone over the majority of the site which is cleared or contains the existing tourist uses
- E2 Environmental Conservation zone over the environmentally sensitive areas of the site. This includes the coastal hazard area to the east and important coastal habitat in the south west corner of the site.



Figure 3: Proposed zones

## 2.2 Schedule 1 changes

This provision is applied to land included in the Tourist zone in LEP 2010 to ensure that development is appropriately developed for tourist uses. It aims to ensure that a portion of the site is retained for visitor and tourist accommodation. The site will also be identified on Additional Uses Map as Area 5 as shown in Figure 4.

The Schedule 1 clause to be applied to this site is outlined below.

### 7. Use of particular land identified as Area 5 on the Additional Uses Map

- (1) This clause applies to land identified as Area 5 on the Additional Uses Map.
- (2) Development for the purposes of residential accommodation is permitted with consent if:
  - (a) the total gross floor area of the development does not exceed 30% of the total gross floor area of all buildings used for the purposes of tourist and visitor accommodation in Area 5, and
  - (b) there are recreational facilities (indoor) or recreational facilities (outdoor) in Area 5, and
  - (c) the consent authority is satisfied that there is a need for residential accommodation to ensure:
    - (i) the safety, security and viability of tourist and visitor accommodation through the off-season, and
    - (ii) the retention of local employment through the off-season.



Figure 4: Additional permitted uses map

## 2.3 Height of Buildings

Currently there are no height of building controls for this site. It is proposed to apply a maximum building height control of 11.5 metres (refer Figure 5) which has been consistently

applied to the Tourist zone. A visual assessment outlined in section 3.3.2(g) confirms this height control for this location.



Figure 5: Proposed maximum building height

### 2.4 Floor Space Ratio

Currently there are no floor space ratio controls for this site. It is proposed to apply a floor space ratio of 0.6:1 (refer Figure 6) to the Tourist zone on the site. This floor space ratio has been consistently applied to the surrounding Tourist zone land.



Figure 6: Proposed floor space ratio

## 2.5 Minimum Lot Size

Currently the minimum lots size on the site is 40 hectares which is consistent with the Primary Production zone. It is proposed to apply a minimum lot size of 1 hectare to the Tourist zone consistent with the surrounding land in this zone. A minimum of 40 hectares will be applied to the land included in the Environmental Conservation zone (refer Figure 7).



Figure 7: Proposed minimum lot size

## Part 3 - Justification

### 3.1 Need for the planning proposal

#### 3.1.1 Is the planning proposal a result of any strategic study/report?

The *Hallidays Point Development Strategy 2004* was adopted by the former Greater Taree City Council in December 2004. This strategy was prepared to recognise and protect the significant coastal character of the Hallidays Point locality while setting out the areas suitable for future development and conservation. While adopted by Council, the strategy was not endorsed by the NSW Department of Planning. Many of the recommendations of this strategy were included in the draft Greater Taree Conservation and Development Strategy 2005 and *Mid North Coast Regional Strategy 2006-2031*.

Figure 8 shows the *Hallidays Point Development Strategy 2004* map with the subject site identified being potentially suitable for Tourism, Environmental Conservation and Mixed Used. The planning proposal is consistent with this intent.

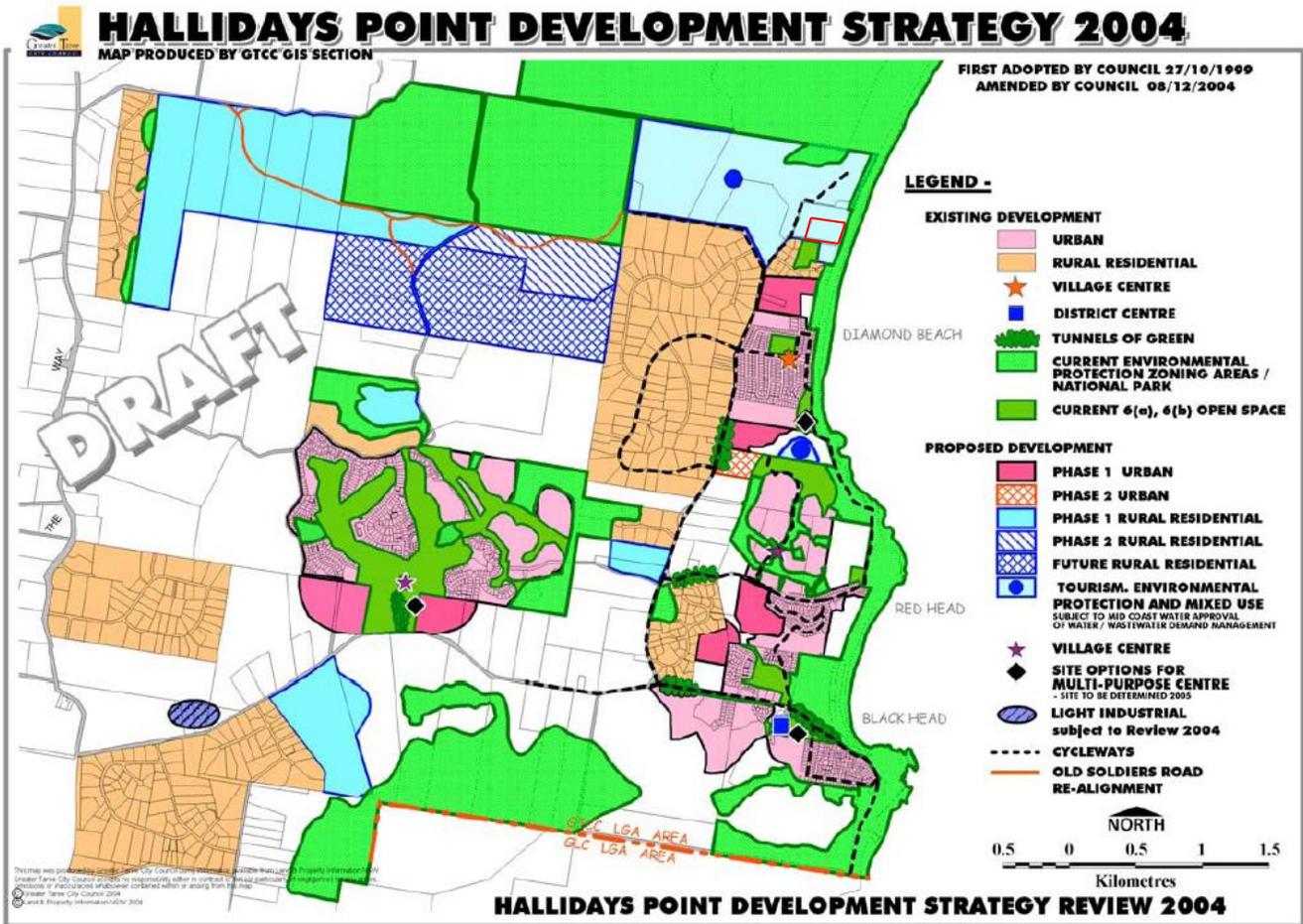


Figure 8: Hallidays Point Development Strategy 2004

In 2007, Council engaged Blueprint Planning Consultants to undertake an investigation into the use of a tourist zone in the Manning Valley. The subject land was included in the investigations. This study provided the basis for the application of the Tourist zone in LEP 2010, including the special provisions in Schedule 1 of LEP 2010, as outlined in section 2.2 of this planning proposal.

While this report identified this site as suitable for the Tourist zone, only the Ramada Resort site at Diamond Beach was included in this zone when LEP 2010 was gazetted in 2010.

The planning proposal is consistent with the intent of both the *Hallidays Point Development Strategy 2004* and the Blueprint Planning Consultants report into the use of a tourist zone in the Manning Valley.

**3.1.2 Is the proposal the best means of achieving the objectives/outcomes?**

The planning framework applied to land in the Tourist zone in LEP 2010 is considered the most appropriate means to achieve a tourist outcome on this site. As a result, the zone, Schedule 1, height of building, minimum lot size and floor space ratio changes are the appropriate means to achieve the planning outcomes for this location.

## 3.2 Relationship to strategic planning framework

### 3.2.1 Is the planning proposal consistent with the regional strategy?

As outlined in Appendix A, the planning proposal is considered to be generally consistent with the applicable objectives and actions contained in the *Hunter Regional Plan 2036*.

The key goals of the *Hunter Regional Plan 2036* addressed in Appendix A are:

- The leading regional economy in NSW
- A biodiversity - rich natural environment
- Thriving communities

### 3.2.2 Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The planning proposal is consistent with the *Manning Valley Community Plan 2010-2030* in terms of:

- **Strategy 7-** to maintain and enhance biodiversity, in accordance with the principle of ecologically sustainable development. The application of the Environmental Conservation zone and appropriate management as outlined in the draft Planning Agreement will ensure the environmental values are maintained and enhanced.
- **Strategy 17 -** to ensure adequate provision of appropriately zoned land that is suitable for the needs of all economic sectors of the local community. The Tourist zone in this location is consistent with the development of this tourist precinct at Diamond Beach.

### 3.2.3 Is the planning proposal consistent With State Environmental Planning Policies (SEPPs)?

As outlined in Appendix B, the planning proposal is considered to be generally consistent with the applicable SEPPS.

The key applicable SEPPs are:

- SEPP No 21—Caravan Parks
- SEPP No 44—Koala Habitat Protection
- SEPP No 55—Remediation of Land
- SEPP No 71—Coastal Protection
- SEPP (Rural Lands) 2008.

### 3.2.4 Is the planning proposal consistent with applicable Ministerial Directions (117 Directions)?

As outlined in Appendix C, the planning proposal is considered to be generally consistent with the applicable 117 Ministerial Directions.

Consultation is required with the following Departments to determine whether the planning proposal is consistent with the relevant directions:

- Direction 1.3 - Mining, Petroleum Production and Extractive Industries – Department of Primary Industries
- Direction 2.3 - Heritage Conservation – Office of Environment and Heritage

### 3.3 Environmental, Social and Economic Impact

#### 3.3.1 Is there any likelihood that critical habitat, threatened species, populations, ecological communities, or their habitats, will be adversely affected as a result of the proposal?

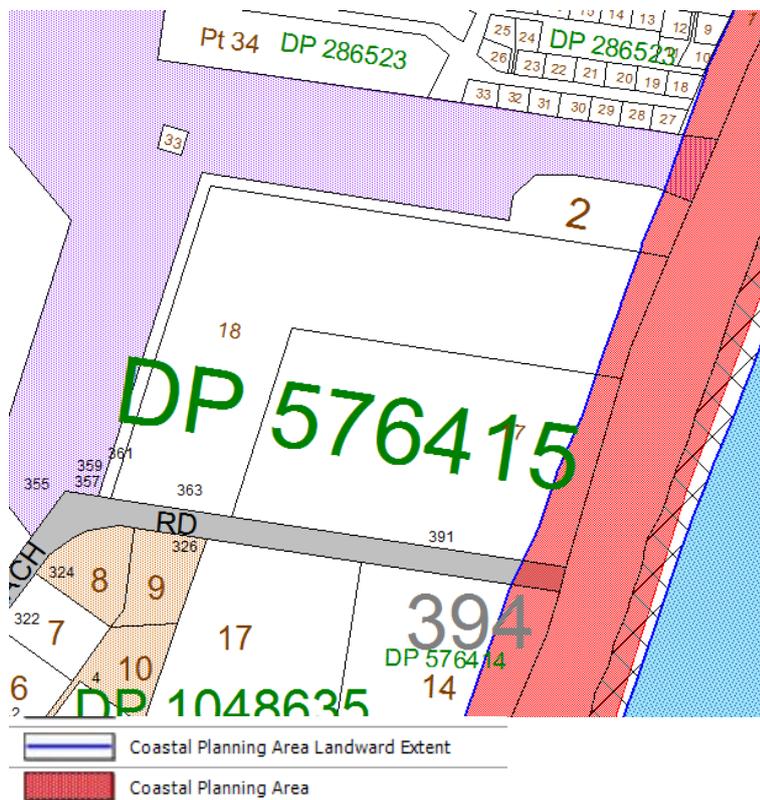
The south western portion of the site contains a natural drainage line and a stand of existing trees classified as an endangered ecological community (EEC) being Swamp Sclerophyll Forest on Coastal Floodplains. This vegetation provides an important link to vegetation on the adjoining site being 363 Diamond Beach Rd.

This vegetation will be included in the Environmental Conservation zone. A draft Planning Agreement will require the lodgement of a vegetation management plan to restore and protect the EEC vegetation in this location.

Given these provisions, the planning proposal will not adversely affect any critical habitat or threatened species, populations or ecological communities, or their habitats.

#### 3.3.2 Are there any other likely environmental effects and how are they proposed to be managed?

The *Greater Taree Development Control Plan 2010* mapping (Figure 9) provides an overview of the general environmental constraints associated with the subject land. The primary constraints are coastal erosion and associated setbacks. The planning proposal identified more site specific matters which are considered below.



**(a) Coastal erosion**

The original intent of including the land along the eastern boundary of the site in the Environmental Conservation zone was to accommodate an area of protection based on projected coastal hazards from the Worley Coastal Hazard Study 2010 and ensure public access along the beach would be maintained. The extent of the Environmental Conservation zone was not an exact replication of the coastal hazard lines as consideration was given to the location of existing buildings on the site. This approach is consistent with that applied to planning proposals to the north and south of the site in the area of Diamond Beach.

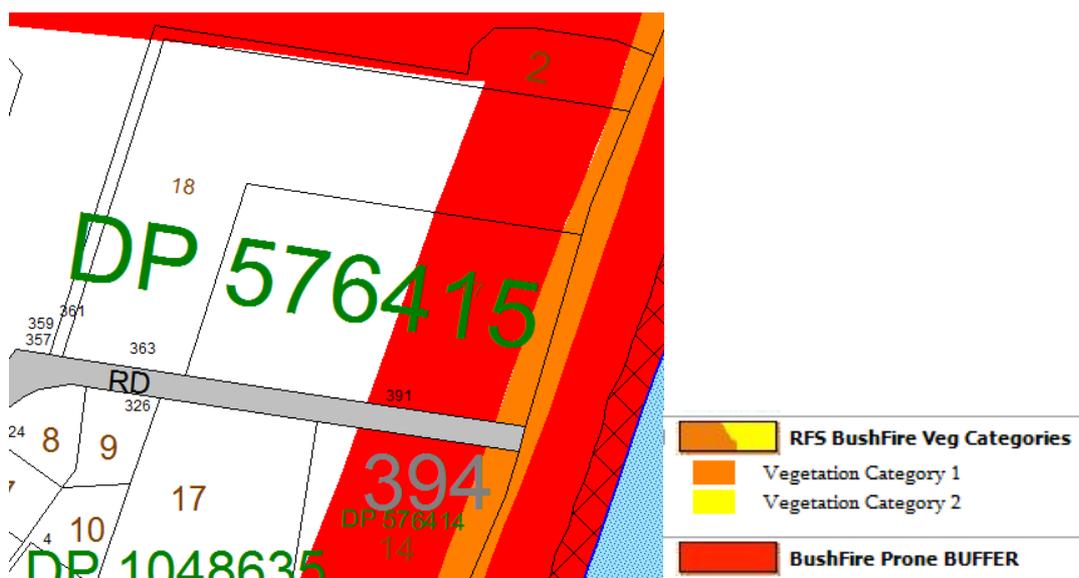
It is noted that these coastal hazard areas are also recognised in the newly adopted *Manning Valley Coastal Zone Management Plan 2017* and recently adopted provisions in the *Greater Taree Development Control Plan 2010*. This ensures a consistent approach to coastal management and assessment of development applications on affected land, including the subject site.

In the Management Plan it is noted that additional coastal studies and investigations will be required to inform a consolidated MidCoast Coastal Management Program (due by 2021). Data and information from these studies will be used to inform new management and adaptation programs, including Council’s statutory planning instruments. As a result of this work, it is Council’s intention to review all statutory documents across the MidCoast to ensure a consistent zoning, development standard and development assessment framework for coastal management.

As such, Council acknowledges that there may be minor inconsistencies with the location of the proposed Environmental Conservation zone in relation to the coastal hazard areas. However, the concept of applying the Environmental Conservation zone to land potentially affected by coastal hazards in preference to an urban or tourism zone, is consistent with the approach applied to properties in this area of Diamond Beach.

**(b) Bushfire protection**

The Bushfire Prone Land mapping associated with the subject land is included as Figure 10.



**Figure 10 Bushfire Prone Land Map**

The eastern sections of the subject land are identified as being bushfire prone. This part of the site is currently occupied by six holiday rental villas and a two storey dwelling. In addition, a development application has been approved on this site for a caravan park, which will provide 90 short term sites and 15 campsites with recreational facilities and amenities to be constructed over 3 stages.

Any future development of the site will require bushfire protection to be considered through the development application process. NSW Rural Fire Services would be consulted to ensure that the bushfire protection measures for the development were suitable.

**(c) Heritage**

An Aboriginal Heritage Assessment was undertaken by McCardle Cultural Heritage Pty Ltd. (Appendix D).

The report concluded that there were no identified archaeological sites in the project area. One Potential Archaeological Deposit (PAD) was identified along the eastern boundary. This area appeared to have been subject to minor disturbances and was an elevated landform in relative close proximity to the beach. The PAD is located within the 30 metre designated coastal erosion zone and is intended to be included in the Environmental Conservation zone where it was not expected to be impacted on by any future development. A site card for the PAD was submitted to AHIMS.

Since this assessment, construction of an access pathway along the coastal boundary of the site is required for this site through a draft Planning Agreement. The width of the land to be dedicated for the path and the type of path construction may be influenced by the PAD and need to be considered through the planning proposal.

This report is to be assessed by the Department of Environment and Heritage.

There are no items of European heritage significance on the subject land.

**(d) Flooding and drainage**

The site is not subject to flooding. Currently site drainage is controlled through existing constructed drainage channels. Any future development of the site would address on-site drainage through the development application process.

**(e) Access and transport**

Access to the site is from Diamond Beach Road which has a suitable capacity for this type of tourist development. Any future development of the site would consider upgrades to the road and access through the development application process.

**(f) Vegetation**

An ecological assessment (see Appendix E) for the subject land was undertaken by Naturecall, which identified two vegetation communities on the subject land (refer Figure 11).

The report was assessed by Council's ecologist. It was recommended that given the Swamp Mahogany Forest is potentially an EEC and possesses other recognised ecological values, this part of the site be included in the Environmental Conservation zone. This approach was consistent with that applied to the neighbouring site at 363 Diamond Beach Road, which formed part of the corridor. In addition, a draft Planning Agreement be put in place to ensure this land is revegetated, restored and maintained as a natural habitat. The continued mowing of the understorey was not considered a satisfactory outcome for this part of the site. These

changes were made to the planning proposal and a draft Planning Agreement is underway. Figure 12 shows the extent of the Environmental Conservation zone to be applied to the site.



Figure 11 Vegetation Communities Map



Figure 12 Proposed Zone Map

### **(g) Visual Amenity**

A Visual Impact Assessment (Appendix F) was undertaken by Terras Landscape Architects. This report assessed potential future development of between 12 to 16 metres building height and concluded that development of such a height would not cause a negative impact on the existing visual quality of the area. However, to be consistent with the building height applied to neighbouring properties in Diamond Beach, a maximum building height of 11.5m was applied to this site.

### **3.3.3 Has the proposal adequately addressed social and economic effects?**

The proposal will enable current and future tourist facilities to remain on the land with certainty for future income. By introducing a 30% permanent residential element into the site's accommodation buildings, the impact that seasonal tourism has on the local economy will decrease. No significant adverse economic impacts have been identified as likely to result due to the proposal.

## **3.4 State and Commonwealth interests**

### **3.4.1 Is there adequate public infrastructure for the planning proposal?**

The following infrastructure providers have been identified for consultation:

- Water Services Division of MidCoast Council (formerly MidCoast Water)
- Telstra
- Essential Energy

### **3.4.2 What are the views of State and Commonwealth public authorities?**

The following State agencies have been identified for consultation:

- NSW Office of Environment and Heritage
- NSW Rural Fire Service
- Department of primary Industries

## **Part 4 - Mapping**

The proposed mapping changes to LEP 2010 are identified in Part 2 of this proposal. These maps are concept maps. Mapping consistent with the standard instrument will be prepared following community consultation.

## **Part 5 - Community consultation**

The period for community consultation will be a minimum of 28 days. This consultation will involve:

- notices in the local newspapers
- providing information about the planning proposal at Council's Administration Buildings in Taree and Forster, the Hallidays Point and Taree libraries and on Council's website
- advice to surrounding residents via letters
- undertaking a community information session on site where residents can view the planning proposal with Council staff/consultants.

Any further consultation required by the Gateway Determination will also be undertaken.

## Part 6 - Project timeline

The project timeline below will be followed for the planning proposal.

Task	Responsibility	Timeframe	Date (approx)
Council resolution on planning proposal	Council	-	April 2017
Lodgement for Gateway determination	Council	-	May 2017
Gateway determination issued	Minister for Planning	-	29 June 2017
Public authority consultation (as per Gateway Determination)	Council	Minimum 28 days	November 2017
Public exhibition	Council	Minimum 28 days	December 2017
Report to Council	Council	30 days	February 2018
Making of local environmental plan	Council Minister for Planning	6 – 12 weeks	May 2018

## Appendix A – Consistency with Hunter Regional Plan 2016

<b>Goal 1 – the leading regional economy in Australia</b>	
<b>Direction 6 – Grow the economy of MidCoast and Port Stephens</b>	
Action 6.3 Enable economic diversity and new tourism opportunities that focus on reducing the impacts of the seasonal nature of tourism and its effect on local economies	The proposal allows for tourist use of the land that will enhance the local economy. The provisions included in Schedule 1 of LEP 2010 enable some permanent occupancy opportunity to reduce the impacts of the seasonal nature of tourism in the locality
<b>Direction 9 – Grow tourism in the region</b>	
Action 9.2 Encourage tourism development in natural areas that support conservation outcomes	The proposal will encourage development in a natural coastal area and will lead to the protection of ecologically valuable areas which are to be included in the Environmental Conservation zone.
<b>Goal 2 – A biodiversity-rich natural environment</b>	
<b>Direction 14 – Protect and connect natural areas</b>	
Action 14.1 Identify terrestrial and aquatic biodiversity values and protect areas of high environmental value to sustain the lifestyle, economic success and environmental health of the region	An area of potential koala habitat is proposed to be protected by including it in the Environmental Conservation zone, as part of a corridor which will provide greater connectivity between the two existing vegetation communities on the site. A draft Planning Agreement requires the applicant to prepare a Vegetation Management Plan to ensure the land in the Environmental Conservation zone is managed and restored appropriately
Action 14.2 Identify and strengthen biodiversity corridors as places for priority biodiversity offsets	As mentioned above, the inclusion of this land in the Environmental Conservation zone and associated works will protect and strengthen a local environmental corridor
Action 14.4 Protect biodiversity by maintaining and, where possible, enhancing existing protection of high environmental value areas; implementing appropriate measures to conserve validated high environmental value areas; developing local strategies to avoid and minimise the impacts of development on areas of high environmental value and biodiversity corridors; and identifying offsets or other mitigation measures for unavoidable impacts	As mentioned above the Environmental Conservation zone and associated works proposed in the south-western section of the site will protect and enhance the environmental values of the site
<b>Direction 16: Increase resilience to hazards and climate change</b>	
Action 16.2 Review and consistently update floodplain risk and coastal zone management plans, particularly where urban growth is being investigated.	The Environmental Conservation zone has been applied to the eastern portion of the site generally consistent with the newly adopted <i>Manning Valley Coastal Zone Management Plan 2017</i> and recently adopted provisions in the <i>Greater Taree Development Control Plan 2010</i> (refer section 3.3.2(a)). The application of this zone will ensure coastal protection measures are in place for this site.

### Goal 3 – Thriving communities

#### Direction 17: Create healthy built environments through good design

Action 17.3 Enhance the quality of neighbourhoods by integrating recreational walking and cycling networks into the design of new communities to encourage physical activity.

Access to the coastal foreshore is addressed in a draft Planning Agreement which requires a 5m strip of land adjacent to the eastern boundary of the land for the entire frontage be dedicated to Council. Other commitments include a monetary contribution for the construction of a 3m wide concrete pathway in this location that will provide future public access, and fencing to control access to the coastal area

#### Direction 18: Enhance access to recreational facilities and connect open space

Action 18.3 Enhance public access to natural areas, including coastal and lake foreshores.

As mentioned in Action 17.3

#### Direction 19 – Identify and protect the region’s heritage

Action 19.1 Consult with the local Aboriginal communities to identify and protect heritage values to minimise the impact of urban growth and development, and to recognise their contribution to the character and landscape of the region.

An Aboriginal Heritage Assessment was undertaken by McCardle Cultural Heritage Pty Ltd. A copy of this report is included at Appendix D. The report concluded that there were no identified archaeological sites on the subject site. One Potential Archaeological Deposit (PAD) was identified along the eastern boundary which appeared to have been subject to minor disturbances and is an elevated landform in relative close proximity to the beach. The PAD is located within the 30 metre designated coastal erosion zone to be included in the Environmental Conservation zone and will not be impacted on by any future development. A site card for the PAD was submitted to AHIMS.

This report is to be assessed by the Department of Environment and Heritage.

## Appendix B – Consistency with SEPPs

State Environmental Planning Policy (SEPP)	Issues
SEPP No 1—Development Standards	Not applicable
SEPP No 14—Coastal Wetlands	Not applicable
SEPP No 19—Bushland in Urban Areas	Not applicable
SEPP No 21—Caravan Parks	There is an existing development approval over the site to enable staged development of a caravan park comprising: 90 short term sites, 15 camp sites, recreational facilities and amenities to be constructed over three years. These activities will continue to be permissible within the SP3 Tourist zone
SEPP No 26—Littoral Rainforests	Not applicable
SEPP No 30—Intensive Agriculture	Not applicable
SEPP No 33—Hazardous and Offensive Development	Not applicable
SEPP No 36—Manufactured Home Estates	Not applicable
SEPP No 44—Koala Habitat Protection	While the site is considered to support potential koala habitat due to the presence of the primary koala food tree Swamp Mahogany, a SEPP 44 assessment was not considered necessary as no vegetation is proposed to be removed. The area of potential koala habitat is proposed to be protected by rezoning it to Environmental Conservation, as part of a corridor which will provide greater connectivity between the two existing vegetation communities on the site. A draft Planning Agreement will require the applicant to prepare a Vegetation Management Plan to ensure the land in the Environmental Conservation zone is managed appropriately and that measures are implemented to restore and enhance the vegetation
SEPP No 47—Moore Park Showground	Not applicable
SEPP No 50—Canal Estate Development	Not applicable
SEPP No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	Not applicable
SEPP No 55—Remediation of Land	The proposed zone reflects current use of the site. There is no evidence of contamination on the site. The site has development approval for the construction of a staged caravan park. The development assessment process determined that residential development is appropriate for this site
SEPP No 62—Sustainable Aquaculture	Not applicable
SEPP No 64—Advertising and Signage	Not applicable
SEPP No 65—Design Quality of Residential Apartment	Not applicable

<b>State Environmental Planning Policy (SEPP)</b>	<b>Issues</b>
<b>SEPP No 70—Affordable Housing (Revised Schemes)</b>	Not applicable
<b>SEPP No 71—Coastal Protection</b>	See Table below
<b>SEPP (Affordable Rental Housing) 2009</b>	Not applicable
<b>SEPP (Building Sustainability Index: BASIX) 2004</b>	Not applicable
<b>SEPP (Exempt and Complying Development Codes) 2008</b>	Not applicable
<b>SEPP (Housing for Seniors or People with a Disability) 2004</b>	Not applicable
<b>SEPP (Infrastructure) 2007</b>	Not applicable
<b>SEPP (Integration and Repeals) 2016</b>	Not applicable
<b>SEPP (Kosciuszko National Park—Alpine Resorts) 2007</b>	Not applicable
<b>SEPP (Kurnell Peninsula) 1989</b>	Not applicable
<b>SEPP (Mining, Petroleum Production and Extractive Industries) 2007</b>	Not applicable
<b>SEPP (Miscellaneous Consent Provisions) 2007</b>	Not applicable
<b>SEPP (Penrith Lakes Scheme) 1989</b>	Not applicable
<b>SEPP (Rural Lands) 2008</b>	This site is not currently used for agricultural production, nor are surrounding sites. The area has been identified in a land strategy for future tourism purposes
<b>SEPP (State and Regional Development) 2011</b>	Not applicable
<b>SEPP (State Significant Precincts) 2005</b>	Not applicable
<b>SEPP (Sydney Drinking Water Catchment) 2011</b>	Not applicable
<b>SEPP (Sydney Region Growth Centres) 2006</b>	Not applicable
<b>SEPP (Three Ports) 2013</b>	Not applicable
<b>SEPP (Urban Renewal) 2010</b>	Not applicable
<b>SEPP (Western Sydney Employment Area) 2009</b>	Not applicable
<b>SEPP (Western Sydney Parklands) 2009</b>	Not applicable

## SEPP 71 Coastal Protection

Matter for consideration	Comments
2-1(a) - to protect and manage the natural, cultural, recreational and economic attributes of the NSW coast.	The planning proposal effectively manages the natural, cultural, recreational and economic attributes of the subject land. A Planning Agreement and a Vegetation Management Plan will be prepared in order to protect natural and recreational attributes of the land.
2-1(b) - to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore.	The planning proposal will provide for access to the coastal foreshore by committing to a Planning Agreement in which a 5m strip of land adjacent to the eastern boundary of the land for the entire frontage will be dedicated to Council. Other commitments include a monetary contribution for the construction of a 3m wide concrete pathway within this 5m strip that will provide future public access, and fencing to control access to the coastal area.
2-1(c) - to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore.	The planning proposal will provide for access to the coastal foreshore by committing to a Planning Agreement in which a 5m strip of land adjacent to the eastern boundary of the land for the entire frontage will be dedicated to Council. Other commitments include a monetary contribution for the construction of a 3m wide concrete pathway within this 5m strip that will provide future public access, and fencing to control access to the coastal area.
2-1(d) - to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge.	The planning proposal will not adversely affect any Aboriginal places, values, customs, beliefs and traditional knowledge.
2-1(e) - to ensure that the visual amenity of the coast is protected.	A Visual Impact Assessment of the potential future development of Lot 17 DP 576415 concludes that the visual amenity of the coast is protected.
2-1(f) - to protect and preserve beach environments and beach amenity.	The planning proposal will not adversely affect beach environments. A Visual Impact Assessment of the potential future development of Lot 17 DP 576415 concludes that the beach amenity is protected.
2-1(g) - to protect and preserve native coastal vegetation.	The planning proposal will provide for access to the coastal foreshore by committing to a Planning Agreement in which a 5m strip of land adjacent to the eastern boundary of the land for the entire frontage will be dedicated to Council. Other commitments include a monetary contribution for the construction of a 3m wide concrete pathway within this 5m strip that will provide future public access, and fencing to control access to the coastal area.
2-1(h) - to protect and preserve the marine environment of NSW.	The planning proposal will not adversely affect the marine environment.
2-1(i) - to protect and preserve rock platforms, and to manage the coastal zone in accordance with the principles of ecologically sustainable development	The planning proposal will not adversely affect any rock platforms.

## SEPP 71 Coastal Protection

Matter for consideration	Comments
2-1(j) - to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area.	A Visual Impact Assessment of the potential future development of Lot 17 DP 576415 concludes that type, bulk, scale and size of any future development will protect the natural scenic quality of the surrounding area. The design of any future development can incorporate natural features that will lead to an improvement in the scenic quality of the surrounding area.
2-1(k) - to encourage a strategic approach to coastal management.	The planning proposal is consistent with the future strategic approach for the locality.
8(b) - existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved	The planning proposal will not adversely affect public access to and along the coastal foreshore for pedestrians or persons with a disability. The planning proposal will provide for access to the coastal foreshore by committing to a Planning Agreement in which a 5m strip of land adjacent to the eastern boundary of the land for the entire frontage will be dedicated to Council. Other commitments include a monetary contribution for the construction of a 3m wide concrete pathway within this 5m strip that will provide future public access, and fencing to control access to the coastal area
8(c) - opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	The planning proposal will provide for access to the coastal foreshore by committing to a Planning Agreement in which a 5m strip of land adjacent to the eastern boundary of the land for the entire frontage will be dedicated to Council. Other commitments include a monetary contribution for the construction of a 3m wide concrete pathway within this 5m strip that will provide future public access, and fencing to control access to the coastal area.
8(d) - the suitability of development given its type, location and design and its relationship with the surrounds	A Visual Impact Assessment of the potential future development of Lot 17 DP 576415 concludes that it is suitable with development in the surrounding area.
8(e) - any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.	The planning proposal will not adversely affect the amenity of the coastal foreshore or lead to overshadowing or loss of views from a public place.
8(f) - the scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	A Visual Impact Assessment of the potential future development of Lot 17 DP 576415 concludes that the scenic qualities of the New South Wales coast will be protected.
8(g) - measures to conserve animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i> ) and plants (within the meaning of that Act), and their habitats.	Any habitat areas on the subject land are proposed to be zoned E2 Environmental Conservation and will be protected.

## SEPP 71 Coastal Protection

Matter for consideration	Comments
8(h) - measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i> ) and marine vegetation (within the meaning of that Part), and their habitats	Not Applicable.
8(i) - existing wildlife corridors and the impact of development on these corridors	There are no known wildlife corridors on the subject land.
8(j) - the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards	<p>The planning proposal has considered the impact of coastal erosion and proposed an E2 Environmental Conservation zoning over land identified as most at risk to be consistent with precedents along the Diamond Beach coastline.</p> <p>The original intention of extending the E2 Environmental Conservation zone in the planning proposal was to accommodate an area of protection based on projected coastal hazards from the Worley Coastal Hazard Study 2010 and to ensure public access along the beach would be maintained. The extent of the E2 zoning is also responsive to the location of existing buildings on the subject site and therefore, is not an exact replication of the coastal hazard lines documented within the Hazard Study. This approach was consistent with similar planning proposals to the north and south of the subject site. For the purposes of this planning proposal the application of the E2 zone is sought to ensure a consistent zoning regime in this area of Diamond Beach.</p> <p>It is noted that these coastal hazard areas are also recognised within the newly adopted Manning Valley Coastal Zone Management Plan 2017 and recently adopted provisions in the Greater Taree Development Control Plan 2010, to ensure a consistent approach to coastal management and assessment of development applications on affected land, including the subject site. Within the Management Plan it is identified that additional coastal studies and investigations will be required to inform a consolidated MidCoast Coastal Management Program, due by 2021. New data and information from these studies will also be used to inform new management and adaptation programs, including Council's statutory planning instruments. In this regard, it is also Council's intention as part of its strategic planning program to review all statutory documents across the MidCoast to ensure a consistent zoning, development standard and development assessment framework.</p> <p>Council therefore acknowledges that while there may be minor inconsistencies with the location of the proposed location of the E2 Environmental Conservation zone boundary, the concept of zoning the areas of land potentially affected by coastal hazards within the E2 zone in preference to an urban or tourism zone, is consistent with adjoining properties within this area of Diamond Beach.</p>
8(k) - measures to reduce the potential for conflict between land-based and water-based coastal activities.	Not Applicable.

## SEPP 71 Coastal Protection

Matter for consideration	Comments
8(l) - measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The planning proposal will not adversely affect any Aboriginal places, values, customs, beliefs and traditional knowledge.
8(m) - likely impacts of development on the water quality of coastal waterbodies.	The planning proposal will not adversely affect the water quality of coastal waterbodies.
8(n) - the conservation and preservation of items of heritage, archaeological or historic significance.	The planning proposal will not adversely affect any Aboriginal places, values, customs, beliefs and traditional knowledge.
8(o) - only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities	Not Applicable.

## Appendix C – Consistency with 117 Ministerial Directions

Ministerial Direction	Issues
<b>1. Employment and Resources</b>	
1.1 Business and Industrial Zones	Not Applicable
1.2 Rural Zones	<p>The objective of this direction is to protect the agricultural production value of rural land. The planning proposal is inconsistent with this direction, however considered to be of minor significance given:</p> <ul style="list-style-type: none"> <li>the land is currently not being used for agricultural purposes nor will it in the future. The land is not suitable for agriculture given its close proximity to the coast, poor quality soils and limited access to fresh water; and</li> <li>the former <i>Mid North Coast Regional Strategy 2006-2031</i> identified the land as a proposed future urban release area.</li> </ul>
1.3 Mining, Petroleum Production and Extractive Industries	To be determined – consultation will occur with the Department of Primary Industries as required. The outcomes will be incorporated into the planning proposal
1.4 Oyster Aquaculture	Not applicable - does not seek a change in land use which could result in adverse impacts on a Priority Oyster Aquaculture Area or a “current oyster aquaculture lease in the national parks estate”
1.5 Rural Lands	<p>The objective of this direction is to protect the agricultural production value of rural land. The planning proposal is inconsistent with this direction, however considered to be of minor significance given:</p> <ul style="list-style-type: none"> <li>the land is currently not being used for agricultural purposes nor will it in the future. The land is not suitable for agriculture given its close proximity to the coast, poor quality soils and limited access to fresh water; and</li> <li>the former <i>Mid North Coast Regional Strategy 2006-2031</i> identified the land as a proposed future urban release area.</li> </ul>
<b>2. Environment and Heritage</b>	
2.1 Environmental Protection Zones	The planning proposal includes requirements which facilitate the protection and conservation of environmentally sensitive areas. This is achieved through parts of the site being included in the Environmental Conservation zone and a Vegetation Management Plan being required to show how the land can be revegetated.
2.2 Coastal Protection	<p>The planning proposal is consistent with provisions of:</p> <ul style="list-style-type: none"> <li>the <i>NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997</i>,</li> <li>the <i>Coastal Design Guidelines 2003</i>, and</li> <li>the manual relating to the management of the coastline for the purposes of section 733 of the <i>Local Government Act 1993</i> (the <i>NSW Coastline Management Manual 1990</i>).</li> </ul> <p>These provisions were considered by Council during the assessment process of the proposed future developments on the subject land.</p>
2.3 Heritage Conservation	<p>This direction provides for the conservation and protection of items of environmental heritage and items of indigenous heritage significance. The subject land does not contain any listed heritage items and there are no apparent items which would be suitable for listing.</p> <p>In relation to indigenous heritage, an Aboriginal Heritage Assessment was undertaken by McCardle Cultural Heritage P/L. A copy of this report is included at Appendix D. This report is to be assessed by the Department of Environment and Heritage to determine if the planning proposal is consistent with this direction. The outcomes will be incorporated into the planning proposal</p>

Ministerial Direction	Issues
2.4 Recreation Vehicle Areas	Not applicable - does not seek to enable land to be developed for the purpose of a recreation vehicle area within the meaning of the Recreation Vehicles Act 1983.
<b>3. Housing, Infrastructure and Urban Development</b>	
3.1 Residential Zones	Not applicable - does not affect land within an existing or proposed residential zone
3.2 Caravan Parks and Manufactured Home Estates	There is an existing development approval over the site to enable staged development of a caravan park comprising 90 short term sites, 15 camp sites, recreational facilities and amenities to be constructed over three years. These activities will continue to be permissible in the Tourist zone.
3.3 Home Occupations	The planning proposal is considered to be consistent with this direction.
3.4 Integrating Land Use & Transport	The planning proposal does not seek to create, alter or remove a zone or a provision relating to urban land.
3.5 Development Near Licensed Aerodromes	Not applicable
3.6 Shooting Ranges	Not applicable
<b>4. Hazard and risk</b>	
4.1 Acid Sulfate Soils	The planning proposal is considered inconsistent with this direction but of minor significance given the site is mapped s containing Class 3 and 5 land on the Acid Sulfate Soils Mapping. Any impact of development will be considered through the development assessment process.
4.2 Mine Subsidence and Unstable Land	Not applicable - not within a designated mine subsidence district and is not identified as being unstable.
4.3 Flood Prone Land	Not applicable - the site is not within a designated floodplain. During significant storm events, water may overflow the banks of the intermittent natural watercourses (drainage gullies) dissecting the site. The site, however, is not considered to be flood prone land as defined by the <i>Floodplain Development Manual 2005</i> .
4.4 Planning for Bushfire Protection	The land subject of the planning proposal is mapped as being bushfire prone land on Council's bushfire prone land mapping. Any future development will need to consider the bushfire protection measures through the development application process. Consultation will occur with the NSW Rural Fire Service to determine if the planning proposal is consistent with this direction. The outcomes will be incorporated into the planning proposal
<b>5. Regional Planning</b>	
5.1 Implementation of Regional Strategies	Not applicable
5.2 Sydney Drinking Water Catchments	Not applicable
5.3 Farmland of State/Regional Significance on the Far North Coast	Not applicable
5.4 Commercial/retail Development along Pacific Highway, North Coast	Not applicable
5.5 – 5.7 Revoked	Not applicable
5.8 Second Sydney Airport: Badgerys Creek	Not applicable
5.9 North West Rail Link Corridor Strategy	Not applicable
5.10 Implementation of Regional Plans	The planning proposal is consistent with the <i>Hunter Regional Plan 2036</i> as outlined in section 3.2.1

Ministerial Direction	Issues
<b>6. Local Plan Making</b>	
6.1 Approval and Referral Requirements	Not applicable - does not require the concurrence, consultation or referral of development applications to a Minister or public authority or identify development as designated development.
6.2 Reserving Land for Public Purposes	Not applicable - does not seek to create, alter or reduce existing zonings or reservations of land for public purposes.
6.3 Site Specific Provisions	The planning proposal is considered to be consistent with this direction. The proposal does not intend to amend another environmental planning instrument in order to allow a particular development proposal to be carried out
<b>7. Metropolitan Planning</b> (Not applicable)	

## Appendix D – Aboriginal Heritage Assessment

**Appendix E – Ecological Assessment**

**Appendix F – Visual Impact Assessment**